

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Chang, Tenny; et. al.
Assignee: Cardica, Inc.
Title: System for Preparing a Vessel for Anastomosis
Serial No.: 10/607,524
Examiner: Diane D. Yabut Filed: June 26, 2003
Docket No.: 133 Group Art Unit: 3734

APPLICANT-INITIATED INTERVIEW REQUEST

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

In compliance with MPEP 713.01, this request is submitted to the Examiner in advance of the interview, and in a form equivalent to Form PTOL-413A.

The proposed date and time of the interview is March 26th, at a time to be determined. The type of interview requested is personal. Tentative participants are Brian Schar, attorney for Cardica, Inc., and Examiner Diane D. Yabut. Supervising Primary Examiner of Art Unit 3734, Michael J. Hayes, is also a tentative participant, at the discretion of Examiner Andersen. An exhibit may be shown: a demonstration model of Cardica's C-Port® distal anastomosis tool and the transfer clamp.

The issues to be discussed include:

(1) Patentability of claims 1-5, 8-11, 13-15 and 18-22 over U.S. Pat. No. 6,187,019 to Stefanchik et. al. ("Stefanchik '019") in view of U.S. Pat. No. 6,036,700 to Stefanchik et. al. ("Stefanchik '700") because, among other reasons, neither patent teaches or suggests the claimed transfer clamp. Stefanchik '700 discloses a tool for facilitating suturing that is never "attached to an anastomosis tool," as required by claim 1. Stefanchik '019 discloses a clip 80 that remains on the anastomosis tool during actuation, contrary to the express requirement of claim 1 that the transfer clamp is "detached from said anastomosis tool before said actuation." (See also the specification of the present application, e.g.; page 7, lines 22-24; page 91, line 19 through page 92, line 6). Thus, the combination of Stefanchik '019 and '700 does not and cannot teach or suggest a transfer clamp that is "detached from said anastomosis tool before said actuation," because Stefanchik '700 is never connected to a separate anastomosis tool in the first place and thus cannot be detached from such an

anastomosis tool, and Stefanchik '019 is not detached from the anastomosis tool before actuation of that anastomosis tool.

(2) The rejection of claims 31-40, which were believed to have been withdrawn per the election of July 18, 2006.

(3) Patentability of claims 41-42, 45 and 47-48 over Stefanchik '019 in view of U.S. Pat. No. 6,066,144 to Wolf ("Wolf"), because, among other reasons, neither patent teaches or suggests the claimed "transfer clamp including two arms movable relative to one another, wherein each said arm includes a substantially planar surface with an edge, wherein the length of each said edge is related to the anastomosis length" of claim 41. The Office Action does not address this limitation, and thus does not contend that Stefanchik '019 teaches or suggests this claim limitation. Indeed, Stefanchik '019 does not, because the clip 80 has two prongs, neither of which include a "substantially planar surface with an edge," as required by claim 41. (Wolf; e.g., Figure 3). Instead the prongs 82, 84 of Stefanchik '019 are tubular, and do not have the claimed "substantially planar surface with an edge." Further, Wolf does not teach or suggest a transfer clamp. Thus, Stefanchik '019 and Wolf, together or separately, do not teach all of the limitations of claim 41.

(4) Patentability of claims 49-53 over Stefanchik '019 in view of Wolf. As set forth above, Stefanchik '019 discloses a clip 80 that remains on the anastomosis tool during actuation, contrary to the express requirement of claim 49 that the mechanism configured to register the graft vessel relative to the tissue effector be "configured to be independent of said tissue effector during actuation thereof." (The tissue effector comprises an anvil and a staple holder movable relative to the anvil, as set forth in claim 49.). Wolf fails to teach a mechanism configured to register the graft vessel relative to the tissue effector, and the Office Action does not contend that it does. As a result, Stefanchik '019 and Wolf, alone or together, do not teach or suggest the claimed mechanism configured to register the graft vessel relative to the tissue effector that is "configured to be independent of said tissue effector during actuation thereof." Further, Wolf does not disclose a flap receiving surface of claim 50, and the Office Action does not provide a reference number for Wolf identifying any flap receiving surface. Wolf is used for side-to-side anastomosis, and at no time does either vessel have a flap; the two vessels are placed side by side with an anvil 22 in the lumen of one and a cartridge 60 in the lumen of the other. (Wolf; col. 10, lines 37-44, Figures 13-16). With no flaps involved in the side-to-side anastomosis, Wolf not only does not teach or suggest a flap receiving surface, but also teaches away from providing a flap receiving surface. Further, Wolf

does not disclose the spike of claim 51. Because Wolf does not teach or suggest a flap receiving surface, Wolf cannot teach or suggest the claimed “spike extending from said flap receiving surface.” In addition, the item 112 of Wolf is a cutting edge 112 of a knife 110. (Wolf; e.g., col. 7, lines 5-7). That knife 110 cuts the opening between the vessels in the anastomosis. (Wolf; col. 10, lines 44-49). The cutting edge of a knife is not a spike, in accordance with the plain meaning of the terms. The specification of the present application confirms this, by indicating the claimed spike does not incise an opening between the vessels to be anastomosed, but rather penetrates and holds a flap of the graft vessel. (Specification; page 7, lines 15-19).

(5) Potential amendments to one or more claims in order to facilitate allowance also may be discussed.

Assignee's attorney thanks the Examiner for her time and courtesy. Please contact the undersigned if there are any questions.

Respectfully submitted,

/Brian A. Schar, Esq./

Brian A. Schar
Reg. No. 45,076
Cardica, Inc.
900 Saginaw Drive
Redwood City, CA 94063